

## National Transportation Safety Board

## § 835.3

### § 831.13 Flow and dissemination of accident information.

(a) Release of information during the field investigation, particularly at the accident scene, shall be limited to factual developments, and shall be made only through the Board Member present at the accident scene, the representative of the Board's Office of Public Affairs, or the investigator-in-charge.

(b) All information concerning the accident or incident obtained by any personnel participating in the field investigation shall be passed to the investigator-in-charge, through appropriate channels. Upon approval of the investigator-in-charge, parties to the investigation may relay to their respective organization information which is necessary for purposes of prevention or remedial action. Under no circumstances shall accident information be released to, or discussed with, unauthorized persons whose knowledge thereof might adversely affect the investigation.

### § 831.14 Proposed findings.

Any person, Government agency, company, or association whose employees, functions, activities, or products were involved in an accident under investigation may submit to the Board, prior to its consideration of probable cause, proposed findings to be drawn from the evidence produced during the course of the accident investigation, a proposed probable cause, and proposed safety recommendations designed to prevent future accidents.

## PART 835—TESTIMONY OF BOARD EMPLOYEES

Sec.

835.1 Purpose.

835.2 Definitions.

835.3 Scope of permissible testimony.

835.4 Use of reports.

835.5 Manner in which testimony is given.

835.6 Request for testimony.

835.7 Testimony of former Board employees.

835.8 Procedure in the event of a subpoena.

835.9 Testimony in State or local investigations.

AUTHORITY: 5 U.S.C. 301; 49 U.S.C. 1441; and 49 U.S.C. 1901 *et seq.*

SOURCE: 55 FR 41541, Oct. 12, 1990, unless otherwise noted.

### § 835.1 Purpose.

This part prescribes the policies and procedures regarding the testimony of employees of the National Transportation Safety Board (Board) in suits or actions for damages and criminal proceedings arising out of transportation accidents. The purpose of this part is to ensure that the time of Board employees is used only for official purposes, to avoid embroiling the Board in controversial issues that are not related to its duties, to avoid spending public funds for non-Board purposes, to preserve the impartiality of the Board, and to prohibit the discovery of opinion testimony.

### § 835.2 Definitions.

*Accident* for purposes of this part includes "incident."

*Board's accident report* means the report containing the Board's determinations, including the probable cause of an accident, issued either as a narrative report or in a computer format (briefs of accidents). Pursuant to section 701(e) of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1441(e)) (FA Act) and section 304(c) of the Independent Safety Board Act of 1974 (49 U.S.C. 1903(c)) (Safety Act), no part of these reports may be admitted as evidence or used in any suit or action for damages growing out of any matter mentioned in such reports.

*Factual accident report* means an investigator's report of his investigation of the accident.

### § 835.3 Scope of permissible testimony.

(a) Section 701(e) of the FA Act and section 304(c) of the Safety Act preclude the use or admission into evidence of Board accident reports in any suit or action for damages arising from accidents. These sections reflect Congress' "strong \* \* \* desire to keep the Board free of the entanglement of such suits." Rep. No. 93-1192, 93d Cong., 2d Sess., 44 (1974), and serve to ensure that the Board does not exert an undue influence on litigation. The purposes of these sections would be defeated if expert opinion testimony of Board employees, which may be reflected in the